

REMARKS/ARGUMENTS

Claims 1-34 are pending in the present application. By this Response, claims 1, 9, 12-17, 19, and 27 are amended; and claim 11 is canceled. Support for the amendment of independent claims 1, 9, 19, and 27 can be found at least on page 28, lines 9-18 of the Specification. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 102, Anticipation: Claims 1-34

The Examiner has rejected claims 1-34 under 35 U.S.C. § 102 as being anticipated by *Wellman, System and Method for Matching Multi-Attribute Auction Bids*, U.S. Patent No. 6,952,682 (October 4, 2005) (hereinafter “*Wellman*”). This rejection is respectfully traversed.

Regarding amended claim 1, the Examiner asserts the following:

Re claim 1: *Wellman* discloses:

A method of rating online auction users: (see *Wellman*, title + Column 2, line 21 “rating” & “reliability”),)

Receiving personal information regarding the user (see *Wellman*, figure 5B, item 554, these attributes are listed in Figure 2 including “buyer credit rating”)

Obtaining objective information about the user from a third party (see *Wellman*, Figure 5B, item 554, these attributes are listed in Figure 2 including “buyer credit rating”)

Formulating an initial value (see *Wellman*, Figure 5A, Item 508)

Office Action dated May 23, 2006, page 2.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). In the case at hand, *Wellman* does not anticipate the present invention as recited in independent claim 1 because *Wellman* fails to teach each and every element of the claim. Independent claim 1 recites the following:

1. A method of rating an online auction user comprising the steps of:
receiving personal information regarding the user;
based on the personal information, obtaining objective information by a Registration Server about the user from a third party; and
formulating an initial value by the Registration Server for a reliability rating based on at least the objective information.

Specifically, *Wellman* does not anticipate claim 1 because *Wellman* does not teach *formulating* an initial value *by the Registration Server* for a *reliability rating* based on at least the objective information.

The Examiner believes this feature is taught, at least in part, by *Wellman*'s Figure 5A, Item 508. Figure 5A is reproduced below:

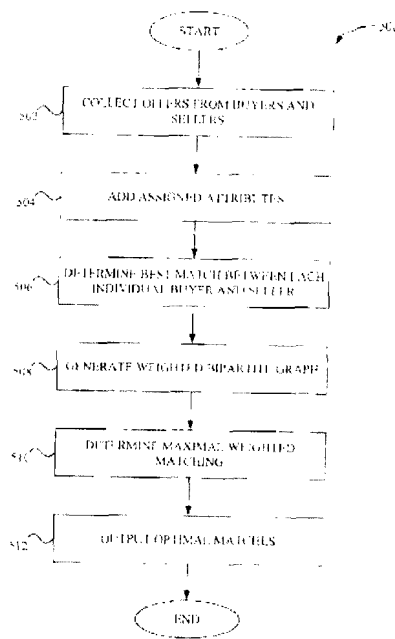


FIG. 5A

Wellman, Figure 5A.

At step 508, Figure 5A discloses generating a weighted bipartite graph rather than “formulating an initial value by the Registration Server for a reliability rating based on at least the objective information,” as recited by claim 1. Instead, as disclosed in Figure 5A and the corresponding text of *Wellman*, after the best match between each buyer and each seller is determined in step 506, the results of step 506 generate a weighted bipartite graph in step 508. The weighted bipartite graph is in turn used to determine a maximal weighted matching in step 510. Finally, the optimal matches are outputted in step 512. (*Wellman*, column 7, lines 53-57). Neither this figure, nor any other portion of *Wellman* actually teaches “formulating an initial value by the Registration Server for a reliability rating based on at least the objective information,” as recited in claim 1. Instead, *Wellman* discloses that seller reliability attributes are “pre-assigned by the market system to each buyer and seller.” (*Wellman*, col. 6, lines 45-47) In contrast, claim 1 recites the step of “formulating an initial value...for a reliability rating.” Furthermore, claim 1 discloses that this “formulating” step is accomplished by a Registration Server. *Wellman* fails to even mention a Registration Server. Thus, as *Wellman* does not disclose formulating an initial value for a reliability rating but rather discloses using pre-assigned seller reliability attributes, and as *Wellman* further does not disclose a Registration Server which performs this formulating step, *Wellman* fails to anticipate independent claim 1.

Because claims 2-8 depends from claim 1, the same distinctions between *Wellman* vis-à-vis claim 1 apply to claims 2-8. Additionally, claims 2-8 recite other additional combinations of features not taught by the reference. For example, claim 2 specifically recites that the objective information of claim 1 includes a credit report. The Examiner states that Figure 2 as shown above teaches the use of a credit report. However, Figure 2 clearly shows a “buyer credit rating” is assigned as an attribute. The figure does not disclose how the buyer credit rating is assigned. “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As disclosed in the Specification on page 3, prior art such as Ebay generates a buyers rating purely on subjective user comments. Therefore, because neither the figure nor any other portion of *Wellman* teaches the specific use a credit report to formulate the buyer credit rating, *Wellman* does not anticipate the features of claim 2.

Furthermore, *Wellman* does not teach the features of a receiving a transaction history for the user and modifying the reliability rating based on the transaction history as recited in claim 4. The Examiner merely states that *Wellman* discloses this feature but does not point out with specificity where this feature is taught in *Wellman*. In the light that *Wellman* does not provide support for the Examiner’s assertion, the Examiner’s assertion is without adequate basis. If the Examiner is relying on the Examiner’s personal knowledge, then Applicants request the Examiner to produce an affidavit in compliance with § 1.107(b) to support his use of personal knowledge in rejecting the claim.

In addition, claim 7 recites the features of wherein the reliability rating includes at least one of a buying limit and a selling limit. The Examiner states that *Wellman*’s seller reliability attribute will limit a seller. However, there is a distinct difference between limiting the amount a seller will sell based on a low reliability calculation and the buying limit and selling limit as claimed in claim 7. As stated on page 15 of the Specification, the buying and selling limits provide the maximum monetary amounts of item that the user may buy or sell. Despite having a low seller’s reliability as taught by *Wellman*, a seller is not limited to a maximum amount that the seller may sell. Because of this distinction, *Wellman* does not teach the features as claimed in claim 7.

Finally, *Wellman* does not teach the feature of presenting to the user a rationale for why the user received the initial value, as recited in claim 8. The Examiner believes this feature is disclosed in Figure 5A, in step 508 with the generation of the bipartite graph. Even assuming that the Examiner is correct in asserting that “by definition of ‘graph’ there must be a rational,” only the Optimal Matches are outputted to the users. (*Wellman*, Figure 5A, step 512) Because *Wellman* does not teach presenting to the user a rationale for why the user received the initial value, as recited in claim 8, *Wellman* does not anticipate claim 8.

In rejecting independent claim 9, the Examiner states:

Re claim 9: Wellman discloses:

A method in a data processing system for managing auctions (see Wellman, title)

Receiving data about a user (see Wellman, Figure 2, “buyer credit rating”)

Rating user using the data to form a user rating (see Wellman, Figure 5A, 508)

Based on the user rating, regulating the user’s access to selected auctions (see Wellman, Figure 3, seller reliability, although they do not use the exact language of “regulating user access” that the low reliability calculation will clearly have an effect of limiting a seller access)

Office Action dated May 23, 2006, p.4.

Wellman does not anticipate independent claim 9, as amended, because *Wellman* does not teach all the features of claim 9. Independent claim 9 recites the following:

9. A method in a data processing system for managing auctions, the method comprising:
 - receiving personal data about a user;
 - based on the personal data, obtaining objective information by a Registration Server about the user from a third party;
 - formulating an initial value by the Registration Server for a reliability rating based on at least the objective information for the user; and
 - based on the user’s reliability rating, regulating the user’s access to selected auctions.

Independent Claim 9, as amended, recites substantially similar features as independent claim 1. Applicants have shown above that *Wellman* fails to teach the feature “formulating an initial value by the Registration Server for a reliability rating based on at least the objective information for the user,” as recited in claim 1. Amended claim 9 also recites this feature. Consequently, *Wellman* also fails to anticipate claim 9 because *Wellman* does not disclose all the features of claim 9.

Furthermore, *Wellman* also does not teach the feature “based on the user’s reliability rating, regulating the user’s access to selected auctions” as recited in claim 9. The Examiner, however, cites to Figure 3, reproduced below, as teaching this feature:

ATTRIBUTE	NOMINAL VALUE	VARIANCES
QUALITY 1	X	1.00, MAX OF 120 MIN OF 20
QUALITY 2	Y	8.00, MAX MIN OF 0
TIME	AFTER 9:00AM AND UNTIL 5:00PM, JUL 1, 1996	10:00AM - 11:00AM
DELIVERY	SAN FRANCISCO	CEDAR RAPIDS OTHER U.S. CITIES
SELLER RELIABILITY		
A ₁	X	X ₁ 4 X ₂ 5
A ₂	Y	
A ₃	Z	
PRICE	100	MINIMUM TO MAXIMUM 1000

FIG. 3

Wellman, Figure 3.

Figure 3 illustrates a sample buyer input screen in which a buyer may specify a set of exclusive multi-attribute bids, including a seller reliability value. However, the “seller reliability” disclosed in Figure 3 does not regulate the user’s access to selected auctions, as alleged by the Examiner. Instead, all buyers and sellers are permitted to participate in the auction contemplated in *Wellman*. For example, Figure 5A, reproduced and discussed above, indicates in step 506 that a best match is determined for *each individual buyer and seller* that participates in the auction. In other words, “seller reliability” is merely a variable selectable by the buyer to narrow down the plurality of sellers who are already participating in the auction. Thus, the “seller reliability” disclosed in Figure 3 does not regulate the user’s access to selected auctions. Likewise, no other portion of *Wellman* teaches regulating the user’s access to selected auctions. Accordingly, *Wellman* does not anticipate independent claim 9.

Because claims 10 and 12-18 depend from independent claim 9, the same distinctions between *Wellman* vis-à-vis claim 9 apply to claims 10 and 12-18. Additionally, dependent claims 10 and 12-18 contain additional features not disclosed by *Wellman*. For example, claim 10 recites “wherein regulating the user’s access to the selected auctions includes one of denying the user access to the selected auctions and allowing the user access to the selected auctions.” In contrast, as discussed above, *Wellman* does not actually deny a user access to selected auctions. Instead, *Wellman* utilizes a Buyer Credit Rating and a Seller Reliability Rating as selectable variables in order to optimally match buyers and sellers who are already participating in an auction. (See, e.g., *Wellman*, col. 5, lines 9-13)

Applicants agree with the Examiner that independent claims 19 and 27 are substantially similar to independent claim 1. (See Office Action dated May 23, 2006, p.5) Applicants have shown above that *Wellman* fails to anticipate claim 1. Consequently, *Wellman* also fails to anticipate claims 19 and 27.

Further, *Wellman* fails to anticipate dependent claims 20-26 at least by virtue of their dependency on independent claim 19. Likewise, *Wellman* fails to anticipate dependent claims 28-34 at least by virtue of their dependency on independent claim 27. In addition, dependent claims 20-26 and 28-34 recite additional features not disclosed by *Wellman*. These features, which were set forth above with respect to dependent claims 2-8, apply to dependent claims 20-26 and 28-34 in accordance with the table created by the Examiner on page 5 of the Office Action dated May 23, 2006. Accordingly, the rejection of claims 1-34 under 35 U.S.C. § 102 has been overcome.

Furthermore, *Wellman* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. *Wellman* teaches a method for matching multi-attribute auction bids. *Wellman*'s teaching is not concerned with how to formulate a reliability rating as taught in the presently claimed invention. Absent the Examiner pointing out some teaching or incentive to implement *Wellman* and the teaching of formulating a reliability rating based on objective information, one of ordinary skill in the art would not be led to modify *Wellman* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Wellman* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using Applicants' disclosure as a template to make the necessary changes to reach the claimed invention.

II. Conclusion

It is respectfully urged that the subject application is patentable over *Wellman* and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: August 18, 2006

Respectfully submitted,

/Cathrine K. Kinslow/

Cathrine K. Kinslow
Reg. No. 51,886
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorney for Applicants

CKK/sl